

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JACOB SMITH,

Plaintiff,

v.

FIRSTENERGY CORP., *et al.*,

Defendants.

)
) Case No. 2:20-cv-03755
)
)

) Judge Edmund A. Sargus
) Magistrate Judge Kimberly A. Jolson
)
)

JAMES BULDAS,

Plaintiff,

v.

FIRSTENERGY CORP., *et al.*,

Defendants.

)
) Case No. 2:20-cv-03987
)
)

) Judge Edmund A. Sargus
) Magistrate Judge Kimberly A. Jolson
)
)

BRIAN HUDOCK and CAMEO
COUNTERTOPS, INC.,

Plaintiff,

v.

FIRSTENERGY CORP., *et al.*,

Defendants.

)
) Case No. 2:20-cv-03954
)
)

) Judge Edmund A. Sargus
) Magistrate Judge Kimberly A. Jolson
)
)

**DECLARATION OF ERIC J. MILLER REGARDING
(A) DISSEMINATION OF THE NOTICE AND (B) REPORT ON REQUESTS
FOR EXCLUSION AND OBJECTIONS RECEIVED TO DATE**

I, Eric J. Miller, hereby declare as follows: I am a Senior Vice President with A.B. Data, Ltd. ("A.B. Data"). I am fully familiar with the facts contained herein based upon my personal knowledge, and if called as a witness, could and would testify competently

thereto. I submit this declaration at the request of Plaintiffs' Counsel in connection with the above-captioned action (the "Action").

1. As detailed in the Declaration of Linda V. Young dated June 10, 2022 (the "Notice Declaration"), and pursuant to the Court's Order Preliminary Approving Class Plaintiffs' Settlement with Defendants dated June 22, 2022, A.B. Data was responsible for implementing the Court-approved Notice Plan. The Notice Plan was designed to provide notice to potential Settlement Class Members. The Settlement Class is defined as follows:

All persons and entities who have paid to Toledo Edison, Cleveland Electric, or Ohio Edison any rates, charges, fees, tolls, or other costs pursuant to HB 6 or any recovery mechanism approved by the Public Utilities Commission of Ohio (PUCO) pursuant to HB 6 through the date of Preliminary Approval of the Settlement Agreements by the Court.

Excluded from the Settlement Class are: (1) Defendants and alleged co-conspirators and their respective parents, subsidiaries, and affiliates; and (2) any Settlement Class member who timely and validly elects to be excluded from the Settlement Class.

2. As detailed in the Notice Declaration, the Notice Plan featured a combination of: i) direct notice by electronic mail ("email") or postcard to potential Settlement Class Members; ii) a digital advertising campaign on numerous digital and social media platforms; iii) a news release disseminated via *PR Newswire*; and v) a toll-free telephone number and case-specific website to address potential Settlement Class Member inquiries.

Direct Notice

3. Defendants have provided names and contact information that includes an email address for approximately 1,528,764 potential Settlement Class Members.

4. The data provided by Settling Defendants was electronically processed to consolidate duplicate records, and the unique potential Settlement Class Member names and contact information are being stored in our secure notice database for purposes of providing notice.

5. In advance of initiating the email campaign, A.B. Data performed several tasks to maximize deliverability and avoid SPAM and junk filters. These tasks included running the list of recipient email addresses through a deliverability analysis to ensure the email addresses are valid, and working with our contacts at the email service providers to develop sending strategies to achieve optimal deliverability. A.B. Data also incorporated certain best practices to maximize deliverability, such as ensuring no inclusion of words or phrases known to trigger SPAM or junk filters, not including attachments to the email, and sending the emails in tranches over a period of weeks.

6. Of the 1,608,093 email addresses received, a total of 1,223,446 unique email addresses remained after the data review and validation efforts.

7. On August 4, 2022, A.B. Data began to send the Email Notice by email to potential Settlement Class Members with a known email address in the unique data set addressed above completing the initial notice on August 12, 2022. Based on our records, those emails were successfully delivered to 893,439 or 73% of the unique email addresses. The delivery rate is due to the subject matter of the case and the volume of emails sent. A.B. Data worked with email technical consultants to address email deliverability throughout the initial Email Notice. A true and correct copy of the Email Notice is attached as **Exhibit A**.

8. Where an Email Notice was not successfully delivered, A.B. Data subsequently mailed a Postcard Notice to the mailing address corresponding to the potential Settlement Class Member provided in the data received from Defendants.

9. On August 12, 2022, A.B. Data sent the Postcard Notice by First-Class Mail to potential Settlement Class Members with a known mailing address and either an unknown or invalid email address. Prior to mailing the Postcard Notices, in order to standardize and update mailing addresses where applicable to maximize postage discounts, A.B. Data Processed all mailing addresses through the United States Postal Service's ("USPS") National Change of Address database ("NCOA"). In sum, A.B. Data caused 1,236,129 Postcard Notices to be mailed to potential Settlement Class Members. To date, 17,093 Postcard Notices have been deemed undeliverable as addressed by the USPS. A.B. Data will continue to process any undeliverable Postcard Notices through an address trace service and attempt to remail the Postcard Notice where an updated address is obtained. A true and correct copy of the Postcard Notice is attached as **Exhibit B**.

Media Notice

10. To supplement direct notice efforts, beginning on July 21, 2022, A.B. Data caused digital banner and newsfeed ads to appear on Google Display Networks and on the Google-affiliated social media platform YouTube. These ads appeared on both desktop and mobile formats.

11. Targeted advertisements were delivered to potential Settlement Class Members using their known contact information. These ads were placed in "premium

positioning” on websites and social media sites, and were specifically designed to be readable, noticeable, and widely disseminated.

12. A.B. Data also used Google AdWords, where identified target phrases and keywords relevant to the Settlement Class are used in searches on Google, then links to the Settlement website will appear on the search result pages.

13. Over 8 million impressions have been delivered through the conclusion of the media notice on August 20, 2022, resulting in over 5,200 clicks to the Settlement website. A sample of the digital banner and newsfeed ads are attached as **Exhibit C**.

Earned Media

14. On July 21, 2022, A.B. Data disseminated a news release via *PR Newswire*’s US1 Newswire distribution list to announce the Settlement. This news release distributed via *PR Newswire* went to the news desks of approximately 10,000 newsrooms, including those of print, broadcast, and digital websites across the United States. The news release was also translated and published to *PR Newswire*’s U.S. Hispanic media contacts and Hispanic news websites. News about the Settlement was also sent via Twitter to the followers of *PR Newswire* and A.B. Data. A copy of the news release is attached as **Exhibit D**.

Website and Telephone

15. To assist potential Settlement Class Members in understanding the terms of the Settlement and their rights, A.B. Data established a case-specific toll-free telephone number (877-888-9895), email address (info@OhioElectricityLitigation.com), and a case-specific website (www.OhioElectricityLitigation.com).

16. On July 21, 2022, A.B. Data established a case-specific toll-free telephone number with an interactive voice response (“IVR”) system which provided summary information to frequently asked questions. This also provided callers the opportunity to speak with a live customer support representative. As of today’s date, a total of 397 calls have been placed to the toll-free number, with 84 of those being transferred to a representative. In addition, A.B. Data has received 667 emails to the email address established for this matter. Since the Notice Plan was only recently concluded shortly before the filing of this Declaration, we anticipate that these contacts will increase.

17. On July 21, 2022, A.B. Data established a case-specific website, www.OhioElectricityLitigation.com. The website address appeared on the Email Notice, Postcard Notice, Long-Form Notice, and in *PR Newswire*. The website includes case-specific information, including relevant deadlines and downloadable versions of the Consolidated Amended Class Action Complaint, Settlement Agreements, Long-Form Notice, and other relevant documents. A copy of the Long-Form Notice is attached as **Exhibit E**. To date, the website has 15,163 visitors.

Requests for Exclusion and Objections

18. A.B. Data will provide an update regarding requests for exclusion and objections following the October 5, 2022 deadline.

19. The Court-approved Notice Plan was implemented and **completed** on August 20, 2022.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on August_31, 2022.



Eric J. Miller

EXHIBIT A

From: Ohio Electricity Litigation Settlement Administrator <mail@originalmailers.com>
Sent: Thursday, August 04, 2022 10:15 AM
To:
Subject: Notice of Proposed Class Action Settlement for Customers of Toledo Edison, Cleveland Electric Illuminating Co., or Ohio Edison

EXTERNAL SENDER

A class action lawsuit may affect your rights



LEGAL NOTICE

Persons and entities who have paid an increased monthly surcharge for electric service in Ohio pursuant to HB 6.

A class action lawsuit may affect your rights.

A court authorized this notice. This is not a solicitation from a lawyer.

NOTICE ID:

A class action lawsuit styled *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755, is pending in the United States District Court for the Southern District of Ohio (the "Court"), and a similar lawsuit styled *Emmons v. FirstEnergy Corp., et al.*, Case No. CV-20 935557, is pending in the Cuyahoga County Court of Common Pleas. Plaintiffs in the lawsuits, on behalf of themselves and all others

similarly situated (the “Plaintiffs”), claim, among other matters, that some or all of Defendants FirstEnergy Corp., FirstEnergy Service Company, Ohio Edison Company (“Ohio Edison”), Toledo Edison Company (“Toledo Edison”), The Cleveland Electric Illuminating Company (“Cleveland Electric”), Charles E. Jones, James F. Pearson, Steven E. Strah, K. Jon Taylor, Michael J. Dowling (“FirstEnergy Settling Parties”), and Energy Harbor Corp., f/k/a FirstEnergy Solutions Corp. (“Energy Harbor”) engaged in a racketeering scheme to pay more than \$61 million in bribes in order to influence and obtain the votes to pass House Bill 6 (“HB 6”), which caused some Ohio residents to pay excessive charges for electricity. Defendants deny any wrongdoing.

Plaintiffs reached a settlement with the FirstEnergy Settling Parties on April 11, 2022, and with Energy Harbor on June 7, 2022 (collectively, the “Settlement”). The Settlement is on behalf of a Settlement Class and includes a monetary payment of \$49,000,000 (the “Settlement Funds”). Members of the Settlement Class have the right to request exclusion from and give up all rights to receive a payment from the Settlement.

Am I Included?

You may be a member of the Settlement Class if you paid to Toledo Edison, Cleveland Electric, or Ohio Edison any rates, charges, fees, tolls, or other costs pursuant to HB 6 or any recovery mechanism approved by the Public Utilities Commission of Ohio (PUCO) pursuant to HB 6 from January 1, 2020 through June 22, 2022.

Your Rights and Options

If you do nothing, you will be bound by the Court's decisions concerning the Settlement with the FirstEnergy Settling Parties, and you will be able to share in the benefits provided in the Settlement. You will be bound by all orders and judgments of the Court, and you will give up the right to sue the FirstEnergy Settling Parties as part of any other lawsuit for the claims and factual allegations that were or could have been raised in this case.

If you want to keep your right to sue one or more of the FirstEnergy Settling Parties regarding the claims in this case, you must exclude yourself from the Settlement Class in writing by October 5, 2022. Additional information on how to request exclusion is available on the case website at www.OhioElectricityLitigation.com.

Additional Information

You do not need to do anything to receive your share of the Settlement Funds. Your money will be sent to you automatically if the Court approves the Settlement unless you exclude yourself from the Settlement. If you have any questions or want to review documents that have been filed in this case, including the detailed Notice that describes how to request exclusion, object to the Settlement, or receive payment, and provides information regarding the Fairness Hearing, you may visit www.OhioElectricityLitigation.com. All dates are subject to change, and current dates are available on the website.

Settlement Administrator

Ohio Electricity Litigation
c/o A.B. Data, Ltd.
P.O. Box 173105
Milwaukee, WI 53217

Please do not reply to this email, this inbox is unmonitored.

You are receiving this Notice because records indicate that you may be a member of the Settlement Class list. If you no longer want to receive our emails, press [this link](#) to be removed from our list. You can also mail your request to PO Box 025250 #43791 Miami, FL 33102-5250

EXHIBIT B

Ohio Electricity Litigation
P.O. Box 173105
Milwaukee, WI 53217

LEGAL NOTICE

Persons and entities who have paid an increased monthly surcharge for electric service in Ohio pursuant to HB 6.

A class action lawsuit may affect your rights.

Postmaster: Please DO NOT Cover Up Barcode

A court authorized this notice. This is not a solicitation from a lawyer.

A class action lawsuit styled *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755, is pending in the United States District Court for the Southern District of Ohio (the “Court”), and a similar lawsuit styled *Emmons v. FirstEnergy Corp., et al.*, Case No. CV-20 935557, is pending in the Cuyahoga County Court of Common Pleas. Plaintiffs in the lawsuits, on behalf of themselves and all others similarly situated (the “Plaintiffs”), claim, among other matters, that some or all of Defendants FirstEnergy Corp., FirstEnergy Service Company, Ohio Edison Company (“Ohio Edison”), Toledo Edison Company (“Toledo Edison”), The Cleveland Electric Illuminating Company (“Cleveland Electric”), Charles E. Jones, James F. Pearson, Steven E. Strah, K. Jon Taylor, Michael J. Dowling (“FirstEnergy Settling Parties”), and Energy Harbor Corp., f/k/a FirstEnergy Solutions Corp. (“Energy Harbor”) engaged in a racketeering scheme to pay more than \$61 million in bribes in order to influence and obtain the votes to pass House Bill 6 (“HB 6”), which caused some Ohio residents to pay excessive charges for electricity. Defendants deny any wrongdoing.

Plaintiffs reached a settlement with the FirstEnergy Settling Parties on April 11, 2022, and with Energy Harbor on June 7, 2022 (collectively, the “Settlement”). The Settlement is on behalf of a Settlement Class and includes a monetary payment of \$49,000,000 (the “Settlement Funds”). Members of the Settlement Class have the right to request exclusion from and give up all rights to receive a payment from the Settlement.

Am I Included?

You may be a member of the Settlement Class if you paid to Toledo Edison, Cleveland Electric, or Ohio Edison any rates, charges, fees, tolls, or other costs pursuant to HB 6 or any recovery mechanism approved by the Public Utilities Commission of Ohio (PUCO) pursuant to HB 6 from January 1, 2020 through June 22, 2022.

Your Rights and Options

If you do nothing, you will be bound by the Court’s decisions concerning the Settlement, and you will be able to share in the benefits provided in the Settlement. You will be bound by all orders and judgments of the Court, and you will give up the right to sue the FirstEnergy Settling Parties and Energy Harbor as part of any other lawsuit for the claims and factual allegations that were or could have been raised in this case.

If you want to keep your right to sue one or more of the FirstEnergy Settling Parties or Energy Harbor regarding the claims in this case, you must exclude yourself from the Settlement Class in writing by October 5, 2022. Additional information on how to request exclusion is available on the case website at www.OhioElectricityLitigation.com.

Additional Information

You do not need to do anything to receive your share of the Settlement Funds. Your money will be sent to you automatically if the Court approves the Settlement, unless you exclude yourself from the Settlement. If you have any questions or want to review documents that have been filed in this case, including the detailed Notice that describes how to request exclusion, object to the Settlement, or receive payment, and provides information regarding the Fairness Hearing, you may visit www.OhioElectricityLitigation.com. All dates are subject to change, and current dates are available on the website.

EXHIBIT C

**Paid for
ELECTRIC
SERVICE
in Ohio?**



**A Class Action
Lawsuit
May Affect
Your Rights**

LEARN MORE 


OhioElectricityLitigation.com



**Paid for
ELECTRIC SERVICE
in Ohio?**



**A Class Action
Lawsuit
May Affect
Your Rights**

LEARN MORE 

OhioElectricityLitigation.com

EXHIBIT D

Miller Law LLC, Murray & Murray Co., L.P.A., and McGowan, Hood & Felder, LLC Announce Proposed Settlement of a Class Action for Customers of Toledo Edison, Cleveland Electric Illuminating Co., or Ohio Edison from January 1, 2020 through June 22, 2022

USA - English ▼

NEWS PROVIDED BY

**Miller Law LLC, Murray & Murray Co.,
L.P.A., and McGowan, Hood & Felder, LLC**

→

Jul 21, 2022, 10:00 ET

CHICAGO, July 21, 2022 /PRNewswire/ --

LEGAL NOTICE

**Persons and entities who have paid an increased monthly surcharge for
electric service in Ohio pursuant to HB 6.**

A class action lawsuit may affect your rights.

A court authorized this notice. This is not a solicitation from a lawyer.

A class action lawsuit styled *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755, is pending in the United States District Court for the Southern District of Ohio (the "Court"), and a similar lawsuit styled *Emmons v. FirstEnergy Corp., et al.*, Case No. CV-20 935557, is pending in the Cuyahoga County Court of Common Pleas. Plaintiffs in the lawsuits, on behalf of themselves and all others similarly situated (the "Plaintiffs"), claim, among other matters, that some or all of Defendants FirstEnergy Corp., FirstEnergy

Company ("Toledo Edison"), The Cleveland Electric Illuminating Company ("Cleveland Electric"), Charles E. Jones, James F. Pearson, Steven E. Strah, K. Jon Taylor, Michael J. Dowling ("FirstEnergy Settling Parties"), and Energy Harbor Corp., f/k/a FirstEnergy Solutions Corp. ("Energy Harbor") engaged in a racketeering scheme to pay more than \$61 million in bribes in order to influence and obtain the votes to pass House Bill 6 ("HB 6"), which caused some Ohio residents to pay excessive charges for electricity. Defendants deny any wrongdoing.

Plaintiffs reached a settlement with the FirstEnergy Settling Parties on April 11, 2022, and with Energy Harbor on June 7, 2022 (collectively, the "Settlement"). The Settlement is on behalf of a Settlement Class and includes a monetary payment of \$49,000,000 (the "Settlement Funds").

Members of the Settlement Class have the right to request exclusion from and give up all rights to receive a payment from the Settlement.

Am I Included?

You may be a member of the Settlement Class if you paid to Toledo Edison, Cleveland Electric, or Ohio Edison any rates, charges, fees, tolls, or other costs pursuant to HB 6 or any recovery mechanism approved by the Public Utilities Commission of Ohio (PUCO) pursuant to HB 6 from January 1, 2020 through June 22, 2022.

Your Rights and Options

If you do nothing, you will be bound by the Court's decisions concerning the Settlement with the FirstEnergy Settling Parties, and you will be able to share in the benefits provided in the Settlement. You will be bound by all orders and judgments of the Court, and you will give up the right to sue the FirstEnergy Settling Parties as part of any other lawsuit for the claims and factual allegations that were or could have been raised in this case.

If you want to keep your right to sue one or more of the FirstEnergy Settling Parties regarding the claims in this case, you must exclude yourself from the Settlement Class in writing by October 5, 2022. Additional information on how to request exclusion is available on the case website at www.OhioElectricityLitigation.com.

Additional Information

You do not need to do anything to receive your share of the Settlement

Funds. Your money will be sent to you automatically if the Court approves

the Settlement unless you exclude yourself from the Settlement. If you have any questions or want to review documents that have been filed in this case, including the detailed Notice that describes how to request exclusion, object to the Settlement, or receive payment, and provides information regarding the Fairness Hearing, you may visit www.OhioElectricityLitigation.com. All dates are subject to change, and current dates are available on the website.

SOURCE Miller Law LLC, Murray & Murray Co., L.P.A., and McGowan, Hood & Felder, LLC

EXHIBIT E

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

PLEASE READ THIS ENTIRE NOTICE CAREFULLY. A UNITED STATES FEDERAL COURT AUTHORIZED THIS NOTICE. YOUR RIGHTS MAY BE AFFECTED BY THE PROCEEDINGS IN THIS ACTION. THIS NOTICE ADVISES YOU OF YOUR RIGHTS AND OPTIONS WITH RESPECT TO THIS ACTION.

If you were a customer of Toledo Edison, Cleveland Electric Illuminating Co., or Ohio Edison from January 1, 2020, through June 22, 2022, you could get a payment from a class action Settlement.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- A Settlement will provide \$49,000,000 to pay customers of Toledo Edison Company (“Toledo Edison”), The Cleveland Electric Illuminating Company (“Cleveland Electric”), and Ohio Edison Company (“Ohio Edison”) from January 1, 2020, through June 22, 2022.
- The Settlement resolves a lawsuit over whether customers of Toledo Edison, Cleveland Electric, or Ohio Edison were harmed by Ohio House Bill 6 (“HB 6”); it avoids costs and risks to you from continuing the lawsuit; it pays money to customers like you; and it releases Toledo Edison, Cleveland Electric, and Ohio Edison from liability, along with their parent company, FirstEnergy Corp. (“FirstEnergy”), FirstEnergy Service Company (“FirstEnergy Service”), Energy Harbor Corp. (f/k/a FirstEnergy Solutions Corp.) (“Energy Harbor”), and certain individuals.
- Court-appointed lawyers for customers will ask the Court to award up to one-third (1/3) of the Settlement (\$16,333,333) as fees, plus reimbursement of expenses, and incentive payments to the Class Representatives and an incentive award for the named plaintiff in the *Emmons* action for investigating the facts, litigating the case, and negotiating the Settlement. Class Counsel may also request an award of additional attorneys’ fees and reimbursement of expenses incurred for services performed during claims administration and to preserve and enforce the Settlement.
- The two sides disagree as to the claims in the case and how much money could have been won if the Plaintiffs won at trial.
- Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS REGARDING THIS SETTLEMENT

**EXCLUDE YOURSELF FROM THE
SETTLEMENT CLASS**

If you wish to exclude yourself from the Settlement Class, you must submit a written request **postmarked no later than October 5, 2022**. If you exclude yourself, you will not be bound by future decisions of the Court and will not be entitled to recover your proportionate share of the Settlement Fund.

DO NOTHING	You are automatically part of the Settlement Class if you fit the Settlement Class description. By remaining in the Settlement Class, you will receive your proportionate share of the Settlement Fund, and you will give up rights to be part of any other lawsuit that asserts claims related to the allegations or claims against the FirstEnergy Settling Parties and Energy Harbor in this case.
OBJECT TO THE SETTLEMENT	Do not exclude yourself. Write to the Court and explain what you do not like about the Settlement. The objection deadline is October 5, 2022 . Please consult www.OhioElectricityLitigation.com for any updates on deadlines.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement. Your notice of intention to appear at the Final Approval Hearing must be postmarked no later than October 5, 2022 . Please consult www.OhioElectricityLitigation.com for any updates on deadlines.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after appeals are resolved. Please be patient.

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BASIC INFORMATION ABOUT THE LAWSUIT AND THE SETTLEMENT CLASS

1. Why did I get this Notice?

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of Ohio (the "Court"). It is not junk mail, an advertisement, or a solicitation from a lawyer. You have not been sued. The purpose of the Notice is to inform you of the Settlement Class in this class action lawsuit.

You are receiving this Notice because records indicate that you may be a member of the Settlement Class.

2. What is the lawsuit about?

A class action lawsuit styled *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755, is pending in the United States District Court for the Southern District of Ohio (the "Court"), and a similar lawsuit styled *Emmons v. FirstEnergy Corp., et al.*, Case No. CV-20 935557, is pending in the Cuyahoga County Court of Common Pleas.

Plaintiffs in the lawsuits claim, among other matters, that Defendants FirstEnergy, FirstEnergy Service, Ohio Edison, Toledo Edison, Cleveland Electric, Charles E. Jones, James F. Pearson, Steven E. Strah, K. Jon Taylor, and Michael J. Dowling (together, the "FirstEnergy Settling Parties"), and Energy Harbor engaged in a racketeering scheme in order to influence the passage of HB 6, thus causing some Ohio residents to pay excessive charges for electricity. Plaintiffs allege that Defendants violated the federal Racketeer Influenced Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968, the Ohio Corrupt Practices Act ("OCPA"), and other common and statutory law. A copy of the Plaintiffs' Consolidated Amended Class Action Complaint is available at www.OhioElectricityLitigation.com. Defendants deny any liability, and the Court has not made any decision on the merits of the Plaintiffs' claims.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF PLAINTIFFS' CLAIMS AGAINST ANY DEFENDANT OR THE DEFENSES ASSERTED BY ANY DEFENDANT.

3. Why is this lawsuit a class action?

In a class action, one or more people called "Class Representatives" sue on behalf of other people with similar claims. In this case, the Class Representatives are Jacob Smith, Brian Hudock, and Cameo Countertops, Inc. The Class Representatives and the persons and entities on whose behalf they have sued together constitute the "Class."

The companies and people that have been sued are called the "Defendants." In a class action lawsuit, one court resolves the issues for everyone in the class, except for those class members who exclude themselves (*i.e.*, "opt out") from the class. The Court, by order dated June 22, 2022, made a preliminary determination that the lawsuit can proceed as a class action for purposes of this Settlement.

THE PROPOSED SETTLEMENT

4. What is the proposed Settlement?

On April 11, 2022, Plaintiffs and the FirstEnergy Settling Parties reached a Settlement on behalf of the Settlement Class that includes a monetary payment of \$37,500,000 to the Settlement Class. In exchange for the Settlement payment, the members of the Settlement Class will release any claims they have against the FirstEnergy Settling Parties that relate to or arise out of HB 6 or the allegations and claims in this case.

On June 7, 2022, Plaintiffs and Energy Harbor reached a Settlement on behalf of the Settlement Class that includes a monetary payment of \$11,500,000 to the Settlement Class. In exchange for the Settlement payment, the members of the Settlement Class will release any claims they have against Energy Harbor that relate to or arise out of HB 6 or the allegations and claims in this case.

5. Why is there a Settlement?

The two sides disagree about the merits of the Plaintiffs' claims and about the amount that the Settlement Class would be entitled to in the event the Plaintiffs were to win the case. Among other things, the Defendants say that the Settlement Class did not suffer any legal harm, due in part to the repeal of various provisions of HB 6.

The Court has not decided in favor of the Plaintiffs or the Defendants. The Plaintiffs and the Defendants have agreed to the Settlement in order to avoid the risks, costs, and delays of further litigation. The Plaintiffs and their attorneys believe that the Settlement is in the best interests of the Settlement Class.

DETERMINING IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS

6. I am a resident of the state of Ohio that has paid for electricity; how do I know if I am a member of the Settlement Class?

You may be a member of the Settlement Class if you paid Toledo Edison, Cleveland Electric, or Ohio Edison for electricity pursuant to HB 6 through the date of Preliminary Approval of the Settlement Agreements (June 22, 2022) by the Court and you are not excluded from the Settlement Class.

The Settlement Class is defined as follows:

All persons and entities who have paid to Toledo Edison, Cleveland Electric, or Ohio Edison any rates, charges, fees, tolls, or other costs pursuant to HB 6 or any recovery mechanism approved by the Public Utilities Commission of Ohio (PUCO) pursuant to HB 6 through the date of Preliminary Approval of the Settlement Agreements by the Court.

Excluded from the Settlement Class are: (1) Defendants and alleged co-conspirators and their respective parents, subsidiaries, and affiliates; and (2) any Settlement Class member who timely and validly elects to be excluded from the Settlement Class.

YOUR OPTIONS AS A MEMBER OF THE SETTLEMENT CLASS

7. What are my options as a member of the Settlement Class?

If you are a member of the Settlement Class, you have several options:

- You can do nothing and receive a Settlement payment.
- You can exclude yourself from the Settlement Class (“opt out”). If you do this, you will not receive any payment from the Settlement, but you will keep the right to sue any of the Defendants yourself, and you will not be bound by any of the orders entered by the Court in the case.
- You can object to the Settlement or to the request by counsel for the Settlement Class for an award of attorneys’ fees and reimbursement of litigation expenses.
- You can attend a Court hearing about the proposed Settlement and ask to address the Court as to the fairness of the Settlement or the attorney’s fee petition.

8. How do members of the Settlement Class exclude themselves from the Settlement Class?

If you are a member of the Settlement Class and you want to be excluded from the Settlement Class, you must submit a written request for exclusion to the Settlement Administrator. Your request for exclusion must include: (1) the Settlement Class member’s name and address; (2) the name and title of the Settlement Class member’s representative (if the Settlement Class member is not an individual); (3) the Settlement Class member’s electricity provider; (4) the service address and/or account number for which the Settlement Class member is requesting exclusion; and (5) a signed statement that you wish to be excluded from the Settlement Class in *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755.

Exclusion requests must be mailed to the Settlement Administrator at the address below and **POSTMARKED no later than October 5, 2022:**

Ohio Electricity Litigation
EXCLUSIONS
P.O. Box 173001
Milwaukee, WI 53217

A separate exclusion request must be submitted by each person or entity electing to be excluded from the Settlement Class. Any Settlement Class member that does not submit a valid request for exclusion providing all necessary information will be bound by the orders of the Court and outcome of the case.

9. **What is the legal significance of excluding myself?**

If you exclude yourself, you will not be legally bound by the orders of the Court or Judgment in the case, and you may be able to sue any of the Defendants. However, you will not receive any portion of the Settlement Fund.

10. **If I don't exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue the Defendants for claims related to the allegations or claims in this case. You must exclude yourself from the Settlement Class to be able to bring your own, separate lawsuit(s) against any of the Defendants. Remember, the exclusion deadline is **October 5, 2022**.

11. **What happens if I do nothing at all?**

If you do nothing, and you are a member of the Settlement Class, you will be bound by all orders of the Court and the Judgment entered in favor of or against the Settlement Class, and you will receive your proportionate share of the Settlement Fund. Unless you exclude yourself, you will not be able to file a lawsuit or be part of any other lawsuit asserting claims against any of the Defendants concerning or relating to the claims and factual allegations that were or could have been raised in this action.

12. **What does it mean to object?**

Objecting is telling the Court that you don't like something about the proposed Settlement. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views before making a decision. Instructions for how to object to the proposed Settlement are in Question 16.

THE LAWYERS REPRESENTING YOU

13. **As a member of the Settlement Class, do I have a lawyer representing my interests in this class action?**

Yes. The Court has appointed lawyers to represent you and other members of the Settlement Class. These lawyers are called Class Counsel.

COUNSEL FOR THE SETTLEMENT CLASS	
Marvin A. Miller MILLER LAW LLC 145 S. Wells Street Chicago, IL 60603	Dennis E. Murray, Jr. MURRAY & MURRAY CO., L.P.A. 111 East Shoreline Drive Sandusky, OH 44870
James L. Ward, Jr. MCGOWAN, HOOD & FELDER, LLC 10 Shem Drive, Suite 300 Mount Pleasant, SC 29464	

14. **How will the lawyers be compensated? Will the named Plaintiffs receive an incentive award?**

Class Counsel will seek an award of attorneys' fees not to exceed one-third (1/3) of the Settlement Amount, reimbursement of expenses, which are estimated to be approximately \$200,000,¹ an incentive award in the sum of \$10,000 for each named Class Representative in this action, and an incentive award in the sum of \$5,000 for the named plaintiff in the *Emmons* action to be paid out of the Settlement Fund. Class Counsel may also request additional attorneys' fees and reimbursement of expenses in connection with the administration and preservation of the Settlement Fund.

15. **Should I get my own lawyer?**

You do not need to hire your own lawyer, but if you hire a lawyer to speak for you or appear in Court, your lawyer must file a Notice of Appearance. If you hire your own lawyer, it will be your responsibility to pay for that lawyer.

OBJECTING TO THE SETTLEMENT

16. **How do I tell the Court I don't like the Settlement?**

To object, you must prepare and sign a written objection that includes: (1) the case name and number ("*Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755"); (2) your full name, current address, and telephone number; (3) a written statement of your objections and the specific reasons for each; (4) any supporting papers, evidence, or documents; (5) a statement of whether you intend to appear and present your objections at the Fairness Hearing (see Question 21); and (6) your signature. You must file your objection with the Court **no later than October 5, 2022**, and mail copies to Class Counsel and Defense Counsel at the following addresses **postmarked no later than October 5, 2022**.

Court
Office of the Clerk
U.S. District Court
Southern District of Ohio
Joseph P. Kinneary Courthouse
Room 121
85 Marconi Boulevard
Columbus, OH 43215

Class Counsel
Dennis E. Murray, Jr.
MURRAY & MURRAY CO., L.P.A.
111 East Shoreline Drive
Sandusky, OH 44870

Marvin A. Miller
MILLER LAW LLC
145 S. Wells Street
Chicago, IL 60603

James L. Ward, Jr.
McGOWAN, HOOD & FELDER, LLC
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

FirstEnergy Counsel
Michael R. Gladman
Tiffany D. Lipscomb-Jackson
JONES DAY
325 John H. McConnell Blvd.
Suite 600
Columbus, OH 43215

David Axelrod
Timothy Katsiff
BALLARD SPAHR LLP
1735 Market Street
Philadelphia, PA 19103

John F. McCaffrey
TUCKER ELLIS LLP
950 Main Avenue, Suite 1100
Cleveland, OH 44113-7213

¹ Including expenses incurred in the *Emmons* case.

Carole Rendon
Terry Brennan
BAKERHOSTETLER
Key Tower
127 Public Square, Suite 2000
Cleveland, OH 44114-1214

Energy Harbor Counsel
Marion H. Little, Jr.
ZEIGER, TIGGES & LITTLE LLP
41 S. High Street
3500 Huntington Center
Columbus, OH 43215

17. What is the difference between objecting and excluding myself?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

18. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing on November 9, 2022, at 9:30 a.m. Eastern Time at the United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215 in Courtroom 301. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Sargus will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take for these decisions to be made.

19. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Sargus may have, but you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked **no later than October 5, 2022**, and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel at the nine addresses in question 17. You cannot speak at the hearing if you excluded yourself.

PLAN OF ALLOCATION AND DISTRIBUTION OF SETTLEMENT FUNDS

21. How will payments to members of the Settlement Class who do not request exclusion be calculated?

At this time, it is unknown how much each eligible Settlement Class member will receive.

Pursuant to the proposed Settlement, Defendants will provide a Forty-Nine Million Dollar (\$49,000,000.00) fund (the "Settlement Funds"). The Settlement Funds, less Court-approved attorneys' fees, reimbursement of expenses, and incentive awards, will be paid to members of the Settlement Class who have not requested

exclusion. No money will be returned to the Defendants once the Court finally approves the Settlement, and no additional money will be paid by any of the Defendants to the Settlement Class. The payment to each eligible member of the Settlement Class, less refunds already paid by the FirstEnergy Settling Parties, will be a proportion of the amount of each member's total fees and charges paid pursuant to HB 6 during the Class Period in relation to such total amount paid by all Settlement Class members, but not to exceed 100% of the amount paid by the members of the Settlement Class.

22. How can I get a payment?

You do not need to do anything to receive your share of the Settlement Funds. Your money will be sent to you automatically if the Court approves the Settlement unless you exclude yourself from the Settlement.

The Settlement Administrator will seek to make the Settlement payments electronically, as this may be the easiest and quickest option for you to receive your money. If you received this Notice by email, please update your email address with a current, valid email address if you would prefer to receive further information at a different address. If you received a hard copy of this Notice in the mail or by any other method, please go to www.OhioElectricityLitigation.com or contact the Settlement Administrator at (877) 888-9895 to provide a current, valid email address. When you receive the email notifying you of your Settlement payment, you will be provided with several digital payment options. You will also have the opportunity to request that a check be mailed to you by the Settlement Administrator. This request can be made at www.OhioElectricityLitigation.com.

Again, you do not need to do anything to receive your money. It will be sent automatically if the Court approves the Settlement.

GETTING MORE INFORMATION

23. Where do I get more information?

This Notice contains a summary of the relevant court papers. Complete copies of public pleadings, Court rulings, and other filings are available for review and copying at the Clerk's office. The address is U.S. District Court, Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

Additional information about the case, including the Settlement Agreements, is available at www.OhioElectricityLitigation.com, or you can call the Settlement Administrator toll-free at (877) 888-9895.

Do not contact the Court, Judge Sargus, or Magistrate Judge Jolson.

DATED: JUNE 22, 2022

BY ORDER OF THE UNITED STATES DISTRICT
COURT, SOUTHERN DISTRICT OF OHIO